

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

UPSTATE NEW YORK BAKERY  
DRIVERS AND INDUSTRY PENSION  
FUND, by Karen Bolcavage-Colosi, et al.

Plaintiffs,

vs.

CIVIL NO. 5:08-CV-401  
(GTS/GHL)

FITZGERALD BROTHERS BEVERAGES, INC.

Defendant.

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Appearances:

Of Counsel:

For Plaintiff:

BLITMAN, KING LAW FIRM  
Franklin Center  
443 North Franklin Street, Suite 300  
Syracuse, New York 13204-1415

Daniel E. Kornfeld, Esq.

For Defendant:

CLIFTON, BUDD LAW FIRM  
420 Lexington Avenue, Suite 420  
New York, New York 10170-0089  
Glenn T. Suddaby, U.S. District Judge

Richard K. Muser, Esq.

**JUDGMENT DISMISSING ACTION BY REASON OF SETTLEMENT**

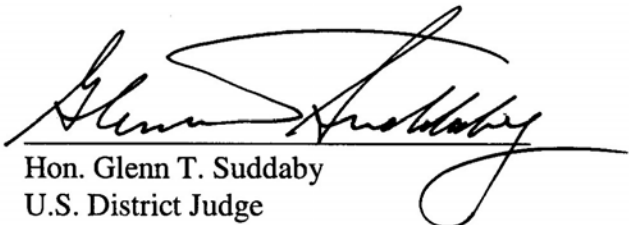
The Court having been advised by counsel that the parties in this action have entered into an agreement in settlement of all claims in this action (Dkt # 24), following which this action will be discontinued, with prejudice, by stipulation pursuant to Rule 41(a)(1)(ii) of the Federal Rules of Civil Procedure. Counsel have also advised that no infant or incompetent is a party to this action. Based upon this development, I find that it is not necessary for this action to remain on the calendar of the Court. It is therefore

hereby

**ORDERED** that this action is **DISMISSED** in its entirety **without prejudice** pursuant to the procedure as set forth in L.R. 68.2(a) of the Local Rules of this court. This judgment is issued without prejudice to the right of the parties to secure reinstatement of the case within thirty (30) days after the date of this judgment by making a showing that the settlement was not, in fact, consummated; and in the event that no request is made for reinstatement within thirty (30) days of the date of this judgment, the dismissal of this case shall thereafter be **with prejudice**; and it is further

**ORDERED** that the Clerk shall serve copies of this Judgment upon the attorneys for the parties appearing in this action.

Dated: February 19, 2009  
Syracuse , New York



Hon. Glenn T. Suddaby  
U.S. District Judge